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Hearing Date: May 2, 2017

Time: 10:00 a.m.

Objection Deadline: March 31, 2017

Time: 5:00 p.m.

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,

v.

THE LUSTIG FAMILY 1990 TRUST; and DAVID
I. LUSTIG, individually and in his capacity as
Trustee for The Lustig Family 1990 Trust,

Defendants.

Adv. Pro. No.: 10-04417 (SMB)

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,

v.

DAVID IVAN LUSTIG,

Defendant.

Adv. Pro. No. 10-04554 (SMB)

**NOTICE OF TRUSTEE'S
MOTION TO STRIKE AFFIRMATIVE DEFENSES**

PLEASE TAKE NOTICE that Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities, LLC and the estate of Bernard L. Madoff (“Madoff”), in accordance with this Court’s Order Authorizing the Trustee to Move to Strike Certain Affirmative Defenses and Establishing a Briefing Schedule (“Court’s Order”) entered on January 27, 2017 (Adv. Pro. No. 10-04417, *Picard v. The Lustig Family 1990 Trust, et al.* (the “Lustig Trust Dkt.”), No. 70; Adv. Pro. No. 10-04554, *Picard v. David Ivan Lustig* (the “Lustig Dkt.”), No. 73), will move before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **May 2, 2017 at 10:00 a.m.** for an order, pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, made applicable to this proceeding by Rule 7012 of the Federal Rules of Bankruptcy Procedure, striking certain of Defendants’ affirmative defenses, as more particularly set forth in the accompanying Memorandum of Law in Support of the Trustee’s Motion to Strike Affirmative Defenses (“Motion”).

PLEASE TAKE FURTHER NOTICE that any response or objection to this Motion must be in writing, conform to the Bankruptcy Rules and other applicable rules and orders of this

Court, including the Court's Order, and shall be filed in accordance with General Order M-399 and the electronic filing procedures for the United States Bankruptcy Court for the Southern District of New York (available at www.nysb.uscourts.gov) by no later than **5:00 p.m. on March 31, 2017** (the "Objection Deadline") (with a courtesy copy delivered to the Chambers of the Honorable Stuart M. Bernstein) and must be served upon (a) Baker & Hostetler LLP, counsel for the Trustee, 45 Rockefeller Plaza, New York, New York 10111, Attn: Nicholas J. Cremona; and (b) Securities Investor Protection Corporation, 1667 K Street, N.W., Suite 1000, Washington, D.C. 20006, Attn: Kevin H. Bell. Any objection must specifically state the interest that the objecting party has in these proceedings and the specific basis for any objection to the Motion.

PLEASE TAKE FURTHER NOTICE that if no responses or objections are timely filed and served with respect to the Motion, the Motion shall be deemed uncontested and an order granting the requested relief may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York

Respectfully submitted,

February 28, 2017

Of Counsel:

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/s/ Nicholas J. Cremona

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